

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STEPHEN WALSH,
Plaintiff,

CIVIL ACTION
NO: 04-12595-RGS

vs.

WOODS HOLE, MARTHA'S VINEYARD
AND NANTUCKET STEAMSHIP
AUTHORITY,
Defendant.

DEFENDANT'S MOTION TO COMPEL ANSWERS TO INTERROGATORIES
AND RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

Now comes the defendant, Woods Hole, Martha's Vineyard & Nantucket Steamship Authority, in the above-entitled action, by and through its undersigned attorneys, Clinton & Muzzka, P.C., and respectfully move this Honorable Court, pursuant to Rule 37 of the Federal Rules of Civil Procedure, to issue an Order compelling the plaintiff to answer its Interrogatories and Requests for Production of Documents within seven (7) days thereof.

As grounds in support of this motion, the defendant submits the following for the Court's consideration.

1. On January 13, 2005, the defendant served its Automatic Disclosure, Interrogatories and Requests for Production of Documents on the plaintiff.
2. On March 15, 2005, the defendant forwarded a letter to the plaintiff requesting the status of his responses to its Interrogatories and Requests for Production of Document. *See, correspondence from*

Clinton & Muzyka, P.C. to Latti & Anderson, LLP attached hereto as Exhibit "A."

3. Approximately three (3) months later on June 16, 2005, the defendant sent a facsimile to the plaintiff requesting responses to its outstanding discovery. The defendant also indicated therein that a Motion to Compel would be filed if responses were not received by or before June 24, 2005. *See, correspondence from Clinton & Muzyka, P.C. to Latti & Anderson, LLP attached hereto as Exhibit "B."*
4. Despite the defendant's efforts to resolve this matter without Court intervention, the plaintiff still has not responded to its Interrogatories and Requests for Production of Documents, which are now approximately six (6) months overdue.
5. Additionally, the plaintiff was scheduled to attend an Independent Medical Examination on July 27, 2005 at the New England Baptist Hospital. Despite the fact that notice of the examination was sent to plaintiff's counsel on June 22, 2005, the plaintiff failed to appear. *See, correspondence from Clinton & Muzyka, P.C. to Latti & Anderson, LLP attached hereto as Exhibit "C."*

WHEREFORE, the defendant, Woods Hole, Martha's Vineyard & Nantucket Steamship Authority, prays that this Honorable Court issue an Order compelling the plaintiff to answer its Interrogatories and Requests for Production of Documents within seven (7) days thereof.

By its attorneys,

CLINTON & MUZYKA, P.C.

"/s/ Kenneth M. Chiarello"

Thomas J. Muzyka

BBO NO: 365540

Kenneth M. Chiarello

BBO NO: 639274

One Washington Mall

Suite 1400

Boston, MA 02108

(617) 723-9165

LOCAL RULE 7.1(A) (2) CERTIFICATE

Boston, MA

August 2, 2005

I, Kenneth M. Chiarello, hereby certify that I attempted to resolve this issue with plaintiff's counsel on several occasions.

"/s/Kenneth M. Chiarello"

Kenneth M. Chiarello

EXHIBIT “A”

CLINTON & MUZYKA, P.C.

ATTORNEYS AT LAW
ONE WASHINGTON MALL, SUITE 1400
BOSTON, MASSACHUSETTS 02108

THOMAS E. CLINTON
THOMAS J. MUZYKA
ROBERT E. COLLINS*
KENNETH M. CHIARELLO
TERENCE G. KENNEALLY
ARTHUR P. SKARMEAS**
Of Counsel

*Also admitted in RI

**Also admitted in NH

March 15, 2005

VIA REGULAR MAIL

TELEPHONE

(617) 723-9163

FACSIMILE

(617) 720-3489

E-MAIL:

c&m@clintmuzyka.com

Latti & Anderson, LLP
30-31 Union Wharf
Boston, MA 02109

Attention: David Anderson, Esq.

Re: Stephen Walsh vs. Woods Hole,
Martha's Vineyard, & Nantucket
Steamship Authority
Civil Action No: 04-12595-RGS

Dear Attorney Anderson:

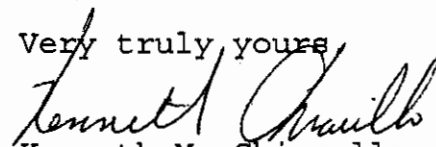
In reference to the above-matter, please find enclosed herewith the following documents, which were produced as a result of the HIPPA Authorizations executed by your client:

1. Falmouth Hospital;
2. Bay Radiology Associates, Inc.;
3. Falmouth Sports Center;
4. Nantucket Cottage Hospital;
5. Cape Cod Sports Medicine, and;
6. Timothy Lepore, M.D.

We will provide you with any additional documents upon receipt. In the interim, please advise of the status of plaintiff's Answers to Interrogatories and Responses to Requests for Production of Documents, which were due last month.

Thank you for your cooperation.

Very truly yours,



Kenneth M. Chiarello

Enclosures.

EXHIBIT “B”

CLINTON & MUZYKA, P.C.
ONE WASHINGTON MALL, SUITE 1400
BOSTON, MA 02108
617.723.9165 TEL
617.720.3489 FAX
KCHIARELLO@CLINMUZYKA.COM

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
David Anderson, Esq.	Kenneth M. Chiarello
COMPANY:	DATE:
Latti & Anderson, LLP	June 16, 2005
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
617-523-7394	1
PHONE NUMBER:	SENDER'S REFERENCE NO:
617-523-1000	

**Re: STEVEN WALSH vs. WOODS
HOLE, MARTHA'S VINEYARD &
NANTUCKET STEAMSHIP AUTHORITY
Civil Action No: 04-12595-RGS**

Dear Dave,

In reference to the above-matter, the defendant served its Requests for Production of Documents and Interrogatories on January 13, 2005. As of this writing, we have not received any responses or answers. Because approximately five (5) months has elapsed, we intend to file a Motion to Compel if responses are not received by or before June 24, 2005. We are providing you with advance notice of our intentions as a matter of professional courtesy.

If you would like to discuss this matter further, please do not hesitate to contact the undersigned. Thank you for your cooperation.

Very truly yours,

Kenneth M. Chiarello

TRANSMISSION REPORT

(THU) JUN 16 2005 17:07

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DOCUMENT# : 6337455-757
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PAGES : 1 sheets
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FACSIMILE TRANSMITTAL SHEET

TO:	David Anderson, Esq.	FROM:	Kenneth M. Chiarello
COMPANY:	Lari & Anderson, LLP	DATE:	June 16, 2005
FAX NUMBER:	617-523-7394	TOTAL NO. OF PAGES INCLUDING COVER:	1
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CLINTON & MUZYKA, P.C.

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June 22, 2005

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Latti & Anderson, LLP
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Boston, MA 02109

Attention: David Anderson, Esq.

Re: Stephen Walsh vs. Woods Hole,
Martha's Vineyard, & Nantucket
Steamship Authority
Civil Action No: 04-12595-RGS

Dear Attorney Anderson:

We refer to the above matter and we wish to advise that we have scheduled an independent medical examination of Stephen Walsh at the office of Edward A. Nalebuff, M.D., Hand Surgical Associates, 125 Parker Hill Avenue, Boston, MA 02120 (617) 738-0857, for Wednesday, July 27, 2005 at 1:00 p.m.

Please note, any cancellation of this appointment must be given 48 hours in advance of the scheduled examination in order to avoid incurrence of unnecessary expenses by cancellation of an appointment.

Thank you for your cooperation and courtesy in this regard.

Very truly yours,


Kenneth M. Chiarello

KMC:cm